

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BEVERLY TRAN,

Plaintiff,

Civil Action No.
07-CV-13232

vs.

HON. BERNARD A. FRIEDMAN

MICHIGAN DEPARTMENT OF
HUMAN SERVICES, et al.,

Defendants.

**OPINION AND ORDER ACCEPTING AND ADOPTING THE MAGISTRATE JUDGE'S
NOVEMBER 20, 2007, REPORT AND RECOMMENDATION AND GRANTING
DEFENDANTS ORCHARDS CHILDREN'S SERVICES, DEVIVO, JOHNSON, AND
WHITE'S MOTION TO DISMISS**

This matter is presently before the Court on Defendants Orchards Children's Services, Carmine DeVivo, Lisa Johnson, and Felicia White's Motion to Dismiss [docket entry 18], filed on September 19, 2007. On November 20, 2007, Magistrate Judge Mona K. Majzoub issued a Report and Recommendation ("R&R"), in which she recommended that Defendants Orchards Children's Services, DeVivo, Johnson, and White's Motion to Dismiss be granted.

The Court reviews *de novo* only those portions of the R&R to which a specific objection has been made. *See* FED. R. CIV. P. 72(b). Plaintiff filed objections on November 28, 2007. The Court has had an opportunity to fully review this matter. The Court finds that Magistrate Judge Majzoub correctly and thoroughly analyzed all of the issues presented, and that she reached the proper conclusions for the proper reasons. Therefore, the Court will accept and adopt the

Magistrate Judge’s recommendations as the findings and conclusions of the Court. In so doing, the Court wishes only to clarify one point of law that Magistrate Judge Majzoub alluded to in her R&R: nonmutual claim preclusion is appropriate when, as here, a *pro se* litigant brings repeated actions upon the same operative facts with only a slight change in legal theories and “cast of characters-defendants.” *See Hazzard v. Weinberger*, 382 F. Supp. 225, 226-29 (S.D.N.Y. 1974), *aff’d*, 519 F.2d 1397 (2d Cir. 1975); *Randles v. Gregart*, 965 F.2d 90, 93 (6th Cir. 1993) (citing *Hazzard* with approval).

The Court also finds that Plaintiff’s lengthy objections to Magistrate Judge Majzoub’s R&R are meritless, to the extent that her arguments are comprehensible and relevant. Plaintiff devotes a significant portion of her objections to arguing that the Court should not take adverse action against her case because, as a *pro se* litigant, she should not be held to the same standards as a licensed attorney. For example, Plaintiff objects to the Magistrate Judge’s preclusion determinations, stating that “if [Plaintiff] did not raise claims in the earlier action, she attributes it to her inability to obtain legal representation . . .” (Pl.’s Objections at 4.) Plaintiff cites *Haines v. Kerner*, 404 U.S. 519, 520 (1972), and cases of similar import, for the proposition that courts should hold the pleadings of *pro se* litigants to “less stringent standards than formal pleadings drafted by lawyers.” However, *Haines* has never been read to excuse a *pro se* litigant from complying with substantive law. *See, e.g., Brown v. Frey*, 806 F.2d 801, 804 (8th Cir. 1987). Therefore, Plaintiff—like any other litigant—is required to satisfy preclusion requirements and likewise obligated to set forth sufficient facts in support of her claims. As Magistrate Judge Majzoub explains in her R&R, Plaintiff has failed to do these things. Accordingly,

IT IS ORDERED that Magistrate Judge Majzoub's Report and Recommendation is accepted and adopted as the findings and conclusions of the Court.

IT IS FURTHER ORDERED that Plaintiff's objections to Magistrate Judge Majzoub's R&R are overruled.

IT IS FURTHER ORDERED that Defendants Orchards Children's Services, DeVivo, Johnson, and White's Motion to Dismiss [docket entry 18] is granted.

____s/Bernard A. Friedman_____
BERNARD A. FRIEDMAN
CHIEF UNITED STATES DISTRICT JUDGE

Dated: December 10, 2007
Detroit, Michigan

I hereby certify that a copy was served upon counsel of record this date.

Carol L. Mullins
Case Manager